

REMARKS

Status Summary

Claims 1-22, 44-65 and 87-100 are pending in the present application. Claims 4-8, 10-22, 47-51, 53-65 and 89-100 have been indicated as allowable, and claims 1-3, 44-46, 52, 87 and 88 presently stand rejected.

Specification

The Examiner has stated that some of the acronyms listed in the specification need further explanation. Changes have been made to the specification where appropriate as indicated by the amendment(s) above. Please note that the acronym SCCP is already defined on page 13, line 23, and thus no changes were deemed necessary for SCCP.

The Examiner has also objected to the hyperlink on page 10. Appropriate changes have been made to the specification as indicated by the amendments above.

Claim Rejection - 35 U.S.C. § 102

Claims 1, 2, 9, 44, 45, 52, 87, and 88 stand rejected by the Examiner under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,324,183 to Miller, hereinafter referred to as "Miller". These rejections are traversed because the present application now claims the benefit of Miller.

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The priority claim in the first line of the specification has been amended as follows:

--This application is a continuation-in-part of U.S. Patent Application Serial No. 09/443,712 filed November 19, 1999, which is a continuation-in-part of U.S. Patent Application Serial No. 09/205,809 filed December 4, 1998 (now U.S. Patent No. 6,324,183), and further claims the benefit of U.S. Provisional Application Serial No. 60/137,988 filed June 7, 1999, the disclosures of both of which are incorporated herein by reference in their entirety.—

Based on this amendment to the priority claim, applicants now claim the benefit of U.S. Patent Application Serial No. 09/205,809 filed December 4, 1998, which corresponds to Miller. Applicants are permitted to amend the priority claim because the time limitation under 37 C.F.R. § 1.78(a)(2)(ii) and 37 C.F.R. § 1.78(a)(5)(ii) do not apply. For example, 37 C.F.R. § 1.78(a)(5)(ii) states as follows:

The time period set forth in this paragraph do not apply if the later filed application is:

- (a) an application filed under 35 U.S.C. § 111(a) before November 29, 2000.

Since the present application was filed on June 6, 2000, the time limitations under 35 U.S.C. § 1.78 do not apply. Accordingly, the priority claim can now be

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amended to contain the specific reference to the earlier filed application as required by 35 U.S.C. § 120.

In addition, the copendency and common inventorship requirements for claiming the benefit of an earlier filed application under 35 U.S.C. § 120 are met. With regard to the copendency requirement, the present application claims the benefit of copending application No. 09/443,712 (hereinafter, the '712 application), which claims the benefit of the application that led to Miller. Since this application was filed during the pendency of the '712 application and the '712 application was filed during the pendency of Miller, the present application is entitled to the priority benefit of Miller. With regard to the common inventorship requirement, the present inventors, Dan Brendes and Dave Sprague, were also named as inventors in Miller. Accordingly, since all the requirements for claiming the benefit of an earlier-filed application in the United States have been met, applicants respectfully submit that the present application should be entitled to the priority benefit of Miller.

For the claims that have been rejected under 35 U.S.C. § 102(e) as unpatentable over Miller, applicants respectfully submit that to the extent these claims are rejectable under 35 U.S.C. § 102(e) based on Miller, they are also entitled to the priority benefit of Miller. For example, a rejection under 35 U.S.C. § 102 requires that the document upon which the rejection is based disclose all of the elements of the claimed invention. Assuming for the sake of argument that Miller discloses all of the elements of one or more of the rejected claims, these claims are also entitled to the priority benefit of Miller. In other words, the claims that are rejectable under 35 U.S.C.

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§ 102(e) based on Miller have the same effective filing date under 35 U.S.C. § 102(e) as Miller. Accordingly, Miller cannot be prior art to these claims and for this reason, it is respectfully requested that the rejection of these claims be withdrawn.

Claim Rejection - 35 U.S.C. § 103

Claims 3 and 46 were rejected under 35 U.S.C. § 103(a) as unpatentable over Miller. This rejection is respectfully traversed.

As stated above, Miller does not qualify as prior art under 35 U.S.C. § 102(e) because the present invention is entitled to the priority benefit under 35 U.S.C. § 120 of Miller. Since Miller fails to qualify as prior art under 35 U.S.C. § 102(e), Miller cannot qualify as prior art under 35 U.S.C. § 103(a).

Even assuming for the sake of argument that Miller could qualify as prior art under 35 U.S.C. § 102(e), Miller cannot qualify as prior art under 35 U.S.C. § 103 because the subject matter of Miller and the subject matter claimed in the present application were commonly owned at the time the invention was made. Accordingly, for this additional reason, the rejection of claims 3 and 53 as unpatentable over Miller should be withdrawn.

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CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

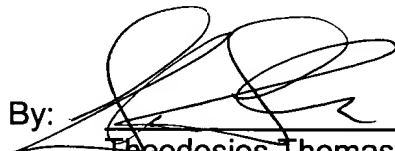
DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON & TAYLOR, P.A.

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